

REMARKS

Claims 1 through 7, 9 through 13 and 16 through 19 were presented for examination. Claims 9 and 10 have been withdrawn from consideration. The instant amendment cancels claims 16 through 19 without prejudice. Thus, claims 1 through 7 and 11 through 13 are presented for consideration upon entry of the instant amendment, which is respectfully requested. Withdrawn claims 9 and 10 remain pending for rejoinder upon allowance of generic claim 1.

Independent claim 1, as well as dependent claims 2-7 and 11-13, were rejected by the Board of Appeals under 35 U.S.C. §103(a) over U.S. Patent No. 2,575,835 to Pohle (Pohle) in view of newly cited U.S. Patent No. 5,722,124 to Wisniewski (Wisniewski).

Independent claim 1 has been amended to clarify that “said flexurally rigid connection and said first and second sections are elastically deformable so that said flexurally rigid connection and said first and second sections bias said first section towards the inner surface to brace the getter in said first section and bias said second section towards the inner surface to brace said second section in said inner surface (emphasis added)”.

Thus, independent claim 1 requires that the elastic deformation of all three components is necessary to perform each of the two separate bracing functions recited. In other words, independent claim 1 requires that the flexurally rigid connection, the first section, and the second section are elastically deformable to brace the getter in the first section. Furthermore, independent claim 1 requires that the flexurally rigid connection, the first section, and the second section are elastically deformable to brace the second section in the inner surface. Thus, the claimed holding clip results in a synergy in the action of all three components to perform each of the two separate bracing functions recited.

Applicants submit that the proposed combination of Pohle and Wisniewski simply

fails to disclose or suggest the elastic deformation of all three components in order to perform each of the two separate bracing functions as claimed.

The Appeals Decision acknowledged that Pohle does not fairly suggest one of the two bracing functions, namely does not disclose or suggest "bracing" the getter in the clip. Rather, the Appeals Decision asserted that elastically deformable portions of a clip that hold another member in place were known as evidenced by Wisniewski.

Wisniewski discloses a fastener clip assembly 10 (FIG. 1) that is configured to secure together a first material 74 to a second material 76 (FIG. 6). In a first installation step, the engaging members 26, 28, 30, 32 of the fastener clip 10 are inserted through the central opening 90. As the reverse angled upper portions come into contact with the sides of the opening 90, they resiliently compress inwardly the engaging members until the outward bends, illustrated in the example by the bend between legs 42 and 44 in the engaging member 26, clears the opening 90. At this point, the sides of the central opening 90 seat around the intermediate portions of the engaging members such that the intermediate portions prevent either axial movement or rotation (spinning) of the fastener clip. See col. 5, lines 46-52.

In a second installation step, the engaging portion 84 with engaging member 86 having sloped means 88 is pressed through the aperture 22 in the base member 12 and causes the inwardly angled and radial portions 24 surrounding the aperture 22 to partially deflect and collapse in an inward fashion until the lower sloped portions 88 of the engaging member clears the portions 24. Id. at lines 53-63.

Thus, the fastener clip assembly 10 of Wisniewski discloses engaging members 26, 28, 30, 32 that connect the clip assembly to the second material 76 and radial portions 24 that connect the clip assembly to the first material 74.

In other words, Wisniewski discloses one part (engaging member) that secures the clip assembly in the second material and a different part (radial portion 24) that

secures the clip assembly to the first material.

However, there is simply no requirement, teaching, or suggestion in Wisniewski that the two different parts (engaging members and radial portions) work together to perform the two different bracing functions.

Rather, Applicants submit that the elastic deformation of the radial portions 24, which deflect and collapse in an inward fashion, play no part in the connection of the engaging members 26, 28, 30, 32 in hole 90 of the second material 76. Similarly, Applicants submit that the elastic deformation of the engaging members 26, 28, 30, 32, which resiliently compress inwardly, play no part in the connection of the first material 74 to the radial portions 24.

The Decision on Request for Rehearing asserts that:

"While we accept the notion that the engaging members 26, 28, 30, 32 in Wisniewski function somewhat differently from that of radial portions 24, we do not accept the notion of these portions of the same clip have "no part" in the way the other functions. This is because the engaging members 26, 28, 30, 32 are contiguous with the base/pedestal component 12/34 of the clip (Wisniewski, Figure 2) which also connects to the radial portions 24. Because of this connection, some stress would have to be transmitted to the base/pedestal component of the clip when the engaging members 26, 28, 30, 32 are compressed. Since, the radial portions 24 also are connected to the clip by the common base/pedestal component 12/34, stress realized in the base/pedestal component would have to have some affect on stresses in the radial portions 12 given the integral nature of the clip and vise versa (emphasis added)". See Page 3, point 3.

Applicants respectfully traverse such an assertion.

Importantly, Applicants submit that the Board failed to provide evidence that supports its conclusion that stress realized in the base component would have to have some affect on stresses in the radial portions 12. Furthermore, the Board failed to even assert that the "some affect" would result in the synergistic effect recited in claim 1.

Still further, the Board's conclusion is contrary to the very disclosure in Wisniewski. Specifically, Wisniewski discloses that as the reverse angled upper portions come into contact with the sides of the opening 90 they resiliently compress inwardly the engaging members until the outward bends, illustrated in the example by the bend between legs 42 and 44 in the engaging member 26, clears the opening 90. At this point, the sides of the central opening 90 seat around the intermediate portions of the engaging members such that the intermediate portions prevent either axial movement or rotation (spinning) of the fastener clip. Nowhere in Wisniewski is it disclosed that such an inward compression of the engaging members results in compression of the radial portions 24.

Notwithstanding the above, independent claim 1 now requires that both the first and second sections are biased toward the inner surface in order to accomplish both of the two separate bracing functions.

In contrast, the radial portions 24 of Wisniewski are resiliently biased inwardly towards the first material. Thus, the proposed combination of Pohle and Wisniewski fail to disclose or suggest the simple combination now recited by claim 1 where both the first and second sections are biased toward the inner surface in order to accomplish both of the two separate bracing functions.

Thus, Applicants submit that the simple combination of claim 1 is not disclosed or suggested by the proposed combination of Pohle and Wisniewski.

Accordingly, it is respectfully submitted that the proposed combination of Pohle and Wisniewski does not disclose or suggest independent claim 1. It is further submitted that the proposed combination of Pohle and Wisniewski does not disclose or suggest claims 2-7 or 11-13 for at least the reason that they depend from the aforementioned claim 1.

For at least the reasons set forth above, claim 1, as well as claims 2-7 and 11-13

that depend therefrom, are in condition for allowance. Reconsideration and withdrawal of the rejections to claims 1-7 and 11-13 are respectfully requested.

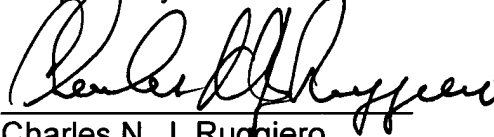
In addition, rejoinder and allowance of withdrawn claims 9 and 10 are also respectfully requested since generic claim 1 is in condition for allowance.

In view of the above, it is respectfully submitted that the present application is in condition for allowance. Such action is solicited.

If for any reason the Examiner feels that consultation with Applicants' attorney would be helpful in the advancement of the prosecution, the Examiner is invited to call the telephone number below.

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Respectfully submitted,



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